

28655

SERVICE DATE - DECEMBER 22, 1997

EB

SURFACE TRANSPORTATION BOARD

DECISION

No. 41575¹

ALITEC CORPORATION--PETITION FOR DECLARATORY ORDER--
CERTAIN RATES AND PRACTICES OF CHURCHILL TRUCK LINES, INC.
(TRANS-ALLIED AUDIT COMPANY, INC.)

No. 41579

GOEDECKE COMPANIES--PETITION FOR DECLARATORY ORDER--
CERTAIN RATES AND PRACTICES OF CHURCHILL TRUCK LINES, INC.
(TRANS-ALLIED AUDIT COMPANY, INC.)

No. 41584

KANSAS TRACTOR PARTS CO., INC.--PETITION FOR DECLARATORY ORDER--
CERTAIN RATES AND PRACTICES OF CHURCHILL TRUCK LINES, INC.
(TRANS-ALLIED AUDIT COMPANY, INC.)

No. 41592

NU-AG/BOSKO, INC.
v.
CHURCHILL TRUCK LINES, INC.
(TRANS-ALLIED AUDIT CO., INC.)

No. 41603

ADCO, INC.
v.
CHURCHILL TRUCK LINES, INC.
(TRANS-ALLIED AUDIT CO., INC.)

¹ These proceedings are not consolidated. A single decision is being issued for administrative convenience only.

No. 41575, et al.

No. 41614

HAWKEYE METAL SPINNING, INC.

v.

CHURCHILL TRUCK LINES, INC.
(TRANS-ALLIED AUDIT COMPANY)

Decided: December 15, 1997

We will dismiss these proceedings as moot.

Alitec Corporation, Goedecke Companies, Kansas Tractor Parts Co., Inc., NU-AG/Bosko, Inc., ADCO, Inc., and Hawkeye Metal Spinning, Inc. (petitioners), former customers of Churchill Truck Lines, Inc. (Churchill), all sought declaratory orders from the Interstate Commerce Commission (ICC)² finding that it would be an unreasonable practice for Churchill, or its audit company Trans-Allied Audit Company, Inc. (respondents), to attempt collect undercharges from them. On March 8, 1996, the ICC issued an order holding the proceedings in abeyance pending the outcome of a separate proceeding in which it was examining the same issue raised by petitioners. Anacomp, Inc.; Crest Manufacturing Incorporated; Godfrey Marine; Harrison International Incorporated; Health and Personal Care Distribution Conference, Inc.; National Small Shipments Traffic Conference, Inc.; and Truckpro Parts & Service, Inc.--Petition for Declaratory Order--Certain Rates and Practices of Churchill Truck Lines, Inc. (Trans-Allied Audit Company, Inc.), Docket No. 41573 (Anacomp).

The ICC's decisions in Anacomp (served August 7 and November 22, 1995) found that respondents' attempts to collect undercharges, under the circumstances of that case, would, indeed, constitute an unreasonable practice. Respondents filed a petition for review of Anacomp, which they later withdrew voluntarily. Churchill Truck Lines, Inc. v. Surface Transportation Board, No. 96-1013 (D.C. Cir., Dec. 6, 1996). Thus, Anacomp is administratively final.

In the meantime, the United States District Court for the District of Minnesota (relying on Anacomp) entered an order enjoining respondents from "attempting to collect additional freight charges from former customers of Churchill." AVR, Inc., et al. v. Churchill Truck Lines, Inc., et al., No. 4-95-CV-401 (Oct. 22, 1996).

² The ICC was abolished January 1, 1996, pursuant to the ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803 (ICCTA). The ICCTA transferred certain ICC functions, including the resolution of issues in motor carrier undercharge proceedings, to the newly created Surface Transportation Board (Board). 49 U.S.C. 13709-11. Therefore, the Board acquired jurisdiction over these matters.

No. 41575, et al.

We will dismiss these cases. Respondents have been enjoined from pursuing any undercharge claims by a Federal district court. Therefore, they may not pursue their undercharge claims against petitioners.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. These proceedings are dismissed.
2. This decision is effective on the service date.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams
Secretary

28655

SERVICE DATE - DECEMBER 22, 1997

EB

SURFACE TRANSPORTATION BOARD

DECISION

No. 41575¹

ALITEC CORPORATION--PETITION FOR DECLARATORY ORDER--
CERTAIN RATES AND PRACTICES OF CHURCHILL TRUCK LINES, INC.
(TRANS-ALLIED AUDIT COMPANY, INC.)

No. 41579

GOEDECKE COMPANIES--PETITION FOR DECLARATORY ORDER--
CERTAIN RATES AND PRACTICES OF CHURCHILL TRUCK LINES, INC.
(TRANS-ALLIED AUDIT COMPANY, INC.)

No. 41584

KANSAS TRACTOR PARTS CO., INC.--PETITION FOR DECLARATORY ORDER--
CERTAIN RATES AND PRACTICES OF CHURCHILL TRUCK LINES, INC.
(TRANS-ALLIED AUDIT COMPANY, INC.)

No. 41592

NU-AG/BOSKO, INC.
v.
CHURCHILL TRUCK LINES, INC.
(TRANS-ALLIED AUDIT CO., INC.)

No. 41603

ADCO, INC.
v.
CHURCHILL TRUCK LINES, INC.
(TRANS-ALLIED AUDIT CO., INC.)

¹ These proceedings are not consolidated. A single decision is being issued for administrative convenience only.

No. 41575, et al.

No. 41614

HAWKEYE METAL SPINNING, INC.

v.

CHURCHILL TRUCK LINES, INC.
(TRANS-ALLIED AUDIT COMPANY)

Decided: December 15, 1997

We will dismiss these proceedings as moot.

Alitec Corporation, Goedecke Companies, Kansas Tractor Parts Co., Inc., NU-AG/Bosko, Inc., ADCO, Inc., and Hawkeye Metal Spinning, Inc. (petitioners), former customers of Churchill Truck Lines, Inc. (Churchill), all sought declaratory orders from the Interstate Commerce Commission (ICC)² finding that it would be an unreasonable practice for Churchill, or its audit company Trans-Allied Audit Company, Inc. (respondents), to attempt collect undercharges from them. On March 8, 1996, the ICC issued an order holding the proceedings in abeyance pending the outcome of a separate proceeding in which it was examining the same issue raised by petitioners. Anacomp, Inc.; Crest Manufacturing Incorporated; Godfrey Marine; Harrison International Incorporated; Health and Personal Care Distribution Conference, Inc.; National Small Shipments Traffic Conference, Inc.; and Truckpro Parts & Service, Inc.--Petition for Declaratory Order--Certain Rates and Practices of Churchill Truck Lines, Inc. (Trans-Allied Audit Company, Inc.), Docket No. 41573 (Anacomp).

The ICC's decisions in Anacomp (served August 7 and November 22, 1995) found that respondents' attempts to collect undercharges, under the circumstances of that case, would, indeed, constitute an unreasonable practice. Respondents filed a petition for review of Anacomp, which they later withdrew voluntarily. Churchill Truck Lines, Inc. v. Surface Transportation Board, No. 96-1013 (D.C. Cir., Dec. 6, 1996). Thus, Anacomp is administratively final.

In the meantime, the United States District Court for the District of Minnesota (relying on Anacomp) entered an order enjoining respondents from "attempting to collect additional freight charges from former customers of Churchill." AVR, Inc., et al. v. Churchill Truck Lines, Inc., et al., No. 4-95-CV-401 (Oct. 22, 1996).

² The ICC was abolished January 1, 1996, pursuant to the ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803 (ICCTA). The ICCTA transferred certain ICC functions, including the resolution of issues in motor carrier undercharge proceedings, to the newly created Surface Transportation Board (Board). 49 U.S.C. 13709-11. Therefore, the Board acquired jurisdiction over these matters.

No. 41575, et al.

We will dismiss these cases. Respondents have been enjoined from pursuing any undercharge claims by a Federal district court. Therefore, they may not pursue their undercharge claims against petitioners.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. These proceedings are dismissed.
2. This decision is effective on the service date.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams
Secretary

28655

SERVICE DATE - DECEMBER 22, 1997

EB

SURFACE TRANSPORTATION BOARD

DECISION

No. 41575¹

ALITEC CORPORATION--PETITION FOR DECLARATORY ORDER--
CERTAIN RATES AND PRACTICES OF CHURCHILL TRUCK LINES, INC.
(TRANS-ALLIED AUDIT COMPANY, INC.)

No. 41579

GOEDECKE COMPANIES--PETITION FOR DECLARATORY ORDER--
CERTAIN RATES AND PRACTICES OF CHURCHILL TRUCK LINES, INC.
(TRANS-ALLIED AUDIT COMPANY, INC.)

No. 41584

KANSAS TRACTOR PARTS CO., INC.--PETITION FOR DECLARATORY ORDER--
CERTAIN RATES AND PRACTICES OF CHURCHILL TRUCK LINES, INC.
(TRANS-ALLIED AUDIT COMPANY, INC.)

No. 41592

NU-AG/BOSKO, INC.
v.
CHURCHILL TRUCK LINES, INC.
(TRANS-ALLIED AUDIT CO., INC.)

No. 41603

ADCO, INC.
v.
CHURCHILL TRUCK LINES, INC.
(TRANS-ALLIED AUDIT CO., INC.)

¹ These proceedings are not consolidated. A single decision is being issued for administrative convenience only.

No. 41575, et al.

No. 41614

HAWKEYE METAL SPINNING, INC.

v.

CHURCHILL TRUCK LINES, INC.
(TRANS-ALLIED AUDIT COMPANY)

Decided: December 15, 1997

We will dismiss these proceedings as moot.

Alitec Corporation, Goedecke Companies, Kansas Tractor Parts Co., Inc., NU-AG/Bosko, Inc., ADCO, Inc., and Hawkeye Metal Spinning, Inc. (petitioners), former customers of Churchill Truck Lines, Inc. (Churchill), all sought declaratory orders from the Interstate Commerce Commission (ICC)² finding that it would be an unreasonable practice for Churchill, or its audit company Trans-Allied Audit Company, Inc. (respondents), to attempt collect undercharges from them. On March 8, 1996, the ICC issued an order holding the proceedings in abeyance pending the outcome of a separate proceeding in which it was examining the same issue raised by petitioners. Anacomp, Inc.; Crest Manufacturing Incorporated; Godfrey Marine; Harrison International Incorporated; Health and Personal Care Distribution Conference, Inc.; National Small Shipments Traffic Conference, Inc.; and Truckpro Parts & Service, Inc.--Petition for Declaratory Order--Certain Rates and Practices of Churchill Truck Lines, Inc. (Trans-Allied Audit Company, Inc.), Docket No. 41573 (Anacomp).

The ICC's decisions in Anacomp (served August 7 and November 22, 1995) found that respondents' attempts to collect undercharges, under the circumstances of that case, would, indeed, constitute an unreasonable practice. Respondents filed a petition for review of Anacomp, which they later withdrew voluntarily. Churchill Truck Lines, Inc. v. Surface Transportation Board, No. 96-1013 (D.C. Cir., Dec. 6, 1996). Thus, Anacomp is administratively final.

In the meantime, the United States District Court for the District of Minnesota (relying on Anacomp) entered an order enjoining respondents from "attempting to collect additional freight charges from former customers of Churchill." AVR, Inc., et al. v. Churchill Truck Lines, Inc., et al., No. 4-95-CV-401 (Oct. 22, 1996).

² The ICC was abolished January 1, 1996, pursuant to the ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803 (ICCTA). The ICCTA transferred certain ICC functions, including the resolution of issues in motor carrier undercharge proceedings, to the newly created Surface Transportation Board (Board). 49 U.S.C. 13709-11. Therefore, the Board acquired jurisdiction over these matters.

No. 41575, et al.

We will dismiss these cases. Respondents have been enjoined from pursuing any undercharge claims by a Federal district court. Therefore, they may not pursue their undercharge claims against petitioners.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. These proceedings are dismissed.
2. This decision is effective on the service date.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams
Secretary